

BEFORE

THE PUBLIC SERVICE COMMISSION OF

SOUTH CAROLINA

DOCKET NO. 97-482-C - ORDER NO. 98-216

MARCH 24, 1998

IN RE: Application of Temporary Telephone Service, ) ORDER APPROVING  
Inc. DBA Temptel for a Certificate of Public ) CERTIFICATE TO PROVIDE  
Convenience and Necessity to Provide Local ) LOCAL EXCHANGE  
Exchange Telecommunications Services ) TELECOMMUNICATIONS  
within the State of South Carolina. ) SERVICES

This matter comes before the Public Service Commission of South Carolina ("the Commission") by way of the Application of Temporary Telephone Service, Inc. d/b/a Temptel ("Temptel" or "the Company") for authority to provide local exchange telecommunications services within the State of South Carolina. The Application was filed pursuant to S.C. Code Ann. §§ 58-9-280 and 56-9-520 and the Regulations of the Commission.

By letter, the Commission's Executive Director instructed Temptel to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the areas affected by the Application. The purpose of the Notice of Filing was to inform interested parties of the manner and time in which to file the appropriate pleadings for participation in the proceedings. Temptel complied with this instruction and provided the Commission with proof of publication of the Notice of Filing.

A Petition to Intervene was received from the South Carolina Telephone Coalition ("SCTC"). Counsel for SCTC filed a Stipulation dated January 5, 1998, in which Temptel

stipulated that it would only seek authority in non-rural local exchange ("LEC") service areas of South Carolina and that it would not provide any local service to any customer located in a rural incumbent's service area, unless and until Temptel provided written notice of its intent prior to the date of the intended service. Temptel also stipulated that it was not asking the Commission to make a finding at this time regarding whether competition is in the public interest for rural areas. Temptel agreed to abide by all State and Federal laws and to participate to the extent it may be required to do so by the Commission in support of universally available telephone service at affordable rates. The SCTC withdrew its opposition to the granting of a statewide Certificate of Public Convenience and Necessity to Temptel provided the conditions contained in the Stipulation are met. The Stipulation is approved and attached hereto as Exhibit 1.

A hearing was commenced on February 26, 1998, at 12:00 p.m., in the Commission's Hearing Room. The Honorable Guy Butler, Chairman, presided. Temptel was represented by B. Craig Collins, Esquire. Florence P. Belser, Staff Counsel, represented the Commission Staff.

R. Victor Nicholls, President of Temptel, appeared and offered testimony in support of Temptel's application. The record reveals that Temptel is a corporation organized and existing under the laws of the State of South Carolina. According to Mr. Nicholls, Temptel proposes to provide resold local exchange telecommunications services in the State of South Carolina.

Mr. Nicholls explained that Temptel proposes to provide intrastate local exchange telecommunications services to customers in South Carolina.

Further, Nicholl's prefiled testimony reveals that Temptel believes that approval of its Application will increase availability of affordable local services for South Carolina's local market and increase competition which will offer customers in South Carolina increased customer choice and increased availability and diversity in services. No party of record offered any evidence that the provision of local exchange service by Temptel will adversely affect local rates.

Mr. Nicholls also explained that Temptel possesses the technical, financial, and managerial abilities to provide its services in South Carolina. Finally, Mr. Nicholls testified that the Company would operate in accordance with the Commission rules, regulations, guidelines and Commission Orders. The record reveals Temptel's services, operations and marketing procedures.

After full consideration of the applicable law, the Company's application, and the evidence presented at the hearing, the Commission hereby issues its findings of fact and conclusions of law:

#### **FINDINGS OF FACT**

1. Temptel is a corporation organized and existing under the laws of the State of South Carolina.
2. Temptel wishes to provide resold local exchange services.
3. The Commission finds that Temptel possesses the technical, financial, and managerial resources sufficient to provide the service requested.

4. The Commission finds that Ttemptel's "provision of service will not adversely impact the availability of affordable local exchange service." S.C. Code Ann. § 58-9-280(B)(3) (Supp. 1997).

5. The Commission finds that Ttemptel will support universally available telephone service at affordable rates.

6. The Commission finds that Ttemptel's will provide service that will meet the service standards of the Commission.

7. The Commission finds that Ttemptel's provision of service is in the public interest and will not adversely impact the public interest. S.C. Code Ann §58-9-280(B)(5) (Supp. 1997).

#### **CONCLUSIONS OF LAW**

1. Based on the above findings of fact, the Commission determines that a Certificate of Public Convenience and Necessity should be granted to Ttemptel to provide competitive intrastate local exchange services in the non-rural local exchange service areas of South Carolina. Any proposal to provide local exchange service to rural service areas is subject to the terms of the Stipulation between Ttemptel and SCTC.

2. For its local service offerings, Ttemptel proposed a maximum rate design by which it would file a set of maximum rates and a price list of current prices. The Commission adopts a rate design for Ttemptel's local service offerings which permits Ttemptel to file its proposed schedule of maximum rates as requested along with a price

list reflecting the actual prices being charged. The Commission has previously adopted a rate structure incorporating maximum rate levels for local exchange services. See, In Re: Application of NewSouth Communications, LLC, etc., Order No. 98-165, issued in Docket No. 97-467-C (March 5, 1998).

For rate adjustments below the approved maximum level, Temptel shall file its proposed tariff filings which shall be presumed valid upon filing, subject to the Commission's right within thirty (30) days to institute an investigation of the tariff filing. If the Commission institutes an investigation of a tariff filing, then the tariff filing will be suspended until further Order of the Commission. Further, any such tariff filings will be subject to the same monitoring process as similarly situated competitive local exchange carriers. The Commission believes that this process will allow Temptel, as a competitive local exchange carrier, the flexibility to compete in the marketplace but will also allow for protection of the consumer through the Commission's investigate process. Any proposed increase in the maximum rate level which would be applicable to the general body of the Company's subscribers shall constitute a general ratemaking proceeding and will be conducted in accordance with the notice and hearing provisions of a general ratemaking proceeding.

3. Prior to offering local exchange services in South Carolina, Temptel shall file its final tariff of its local service offerings. The final tariff shall include Temptel's Maximum Rate Schedule and Price List. Further, the final tariff shall conform to all matters discussed with Staff and shall comport with South Carolina law in all matters.

4. Temptel shall resell the services of only those LECs authorized to do business in South Carolina by this Commission.


5. The Company shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests and repairs. In addition, the Company shall provide to the Commission in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours.

Temptel shall file the names, addresses and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. Attachment A shall be utilized for the provision of this information to the Commission. Further, the Company shall promptly notify the Commission in writing if the representatives are replaced, and the Company is directed to comply with the Commission regulations unless waived by the Commission.

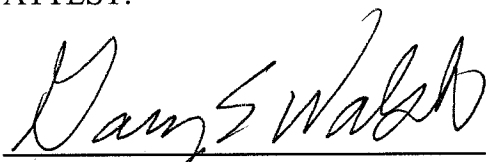
6. Temptel shall conduct its business in compliance with Commission decisions and Orders, both past and future, including but not limited to, any and all Commission decisions which may be rendered in Docket No. 96-018-C regarding local competition. Further, Temptel shall conduct its business in accordance with all Commission Rules and Regulations.

7. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

  
Chairman

ATTEST:

  
Deputy Executive Director

(SEAL)

DOCKET NO. 97-482-C - ORDER NO. 98-216  
MARCH 24, 1998  
ATTACHMENT A

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**INFORMATION OF THE AUTHORIZED UTILITY  
REPRESENTATIVES FOR INTEREXCHANGE, LOCAL  
AND AOS COMPANIES**

PURSUANT TO SOUTH CAROLINA PUBLIC SERVICE COMMISSION  
REGULATION 103-612.2.4(b), each utility shall file and maintain with the Commission  
the name, title, address, and telephone number of the persons who should be contacted in  
connection with Customer Relations/Complaints.

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Company Name/DBA Name

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Business Address

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City, State, Zip Code

---

Authorized Utility Representative (Please Print or Type)

---

Telephone Number

Fax Number

---

E-Mail Address

---

This form was completed by      Signature

If you have any questions, contact the Consumer Services Department at 803-737-5230



1. SCTC does not oppose the granting of a statewide Certificate of Public Convenience and Necessity to Temporary, provided the South Carolina Public Service Commission ("Commission") makes the necessary findings to justify granting of such a certificate, and provided the conditions contained within this stipulation are met.
2. Temporary stipulates and agrees that any Certificate which may be granted will authorize Temporary to provide service only to customers located in non-rural local exchange company ("LEC") service areas of South Carolina, except as provided herein.
3. Temporary stipulates that it is not asking the Commission to make a finding at this time regarding whether competition is in the public interest for rural areas.

4. Temporary stipulates and agrees that it will not provide any local service, by its own facilities or otherwise, to any customer located in a rural incumbent LEC's service area, unless and until Temporary provides such rural incumbent LEC and the Commission with written notice of its intent to do so at least thirty (30) days prior to the date of the intended service. During such notice period, the rural incumbent LEC will have the opportunity to petition the Commission to exercise all rights afforded it under Federal and State law. Also, Temporary acknowledges that the Commission may suspend the intended date for service in rural LEC territory for ninety (90) days while the Commission conducts any proceeding incident to the Petition or upon the Commission's own Motion, provided that the Commission can further suspend the implementation date upon showing of good cause.

5. Temporary stipulates and agrees that if, after Temporary gives notice that it intends to serve a customer located in a rural incumbent LEC's service area, the Commission receives a Petition from the rural incumbent LEC to exercise its rights under Federal or State law, or the Commission institutes a proceeding of its own, then Temporary will not provide service to any customer located within the service area in question without prior and further Commission approval.

6. Temporary acknowledges that any right which it may have or acquire to serve a rural telephone company service area in South Carolina is subject to the conditions contained herein, and to any future policies, procedures, and guidelines relevant to such proposed service which the Commission may implement, so long as such policies, procedures, and guidelines do not conflict with Federal or State law.

7. The parties stipulate and agree that all rights under Federal and State law are reserved to the rural incumbent LECs, and this Stipulation in no way suspends or adversely

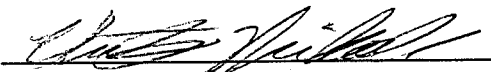
affects such rights, including any exemptions, suspensions, or modifications to which they may be entitled.

8. Temporary agrees to abide by all State and Federal laws and to participate, to the extent it may be required to do so by the Commission, in the support of universally available telephone service at affordable rates.

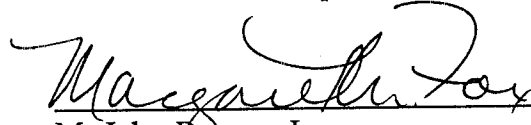
9. Temporary hereby amends its application and its prefiled testimony in this docket to the extent necessary to conform with this Stipulation.

AGREED AND STIPULATED to this 5<sup>th</sup> day of January, 1998.

Temporary Telephone Service, Inc.

  
R. Victor Nicholls,  
President

South Carolina Telephone Coalition:

  
M. John Rowen, Jr.  
Margaret M. Fox  
McNair Law Firm, P.A.  
Post Office Box 11390  
Columbia, South Carolina 29201  
(803) 799-9800

Attorneys for the South Carolina  
Telephone Coalition

## ATTACHMENT A

### South Carolina Telephone Coalition Member Companies for Purposes of Local Service Stipulation

ALLTEL South Carolina, Inc.  
Bluffton Telephone Company, Inc.  
Chesnee Telephone Company  
Chester Telephone Company  
Farmers Telephone Cooperative, Inc.  
Ft. Mill Telephone Company  
Hargray Telephone Company, Inc.  
Heath Springs Telephone Company Inc.  
Home Telephone Company, Inc.  
Horry Telephone Cooperative, Inc.  
Lancaster Telephone Company  
Lockhart Telephone Company  
McClellanville Telephone Company  
Norway Telephone Company  
Palmetto Rural Telephone Cooperative, Inc.  
Piedmont Rural Telephone Cooperative, Inc.  
Pond Branch Telephone Company  
Ridgeway Telephone Company  
Rock Hill Telephone Company  
Sandhill Telephone Cooperative, Inc.  
St. Stephen Telephone Company  
West Carolina Rural Telephone Cooperative, Inc.  
Williston Telephone Company

BEFORE  
THE PUBLIC SERVICE COMMISSION  
OF  
SOUTH CAROLINA

Docket No. 97-482-C

Re: Application of Temporary Telephone Service, Inc. )  
for a Certificate of Convenience and )  
Necessity to Operate as a Provider of Local )  
Exchange Telecommunications Services )  
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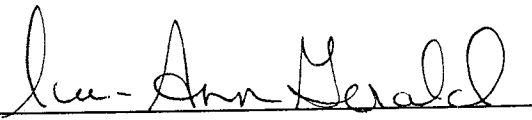
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**CERTIFICATE OF SERVICE**

I, Sue-Ann Gerald, do hereby certify that this day I caused to have served the foregoing Stipulation to the below named party of record, by having same delivered as indicated, this 5th day of January, 1998, and addressed as follows:

**U.S. MAIL - FIRST CLASS POSTAGE AFFIXED:**

B. Craig Collins, Esquire  
Willoughby & Hoefer, P.A.  
Post Office Box 8416  
Columbia, South Carolina 29202-8416

  
Sue-Ann Gerald

Columbia, South Carolina